



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,076	02/03/2004	Joseph M. Asher	04-7103	1945
63710	7590	09/03/2008	EXAMINER	
DEAN P. ALDERUCCI			LEIVA, FRANK M	
CANTOR FITZGERALD, L.P.				
110 EAST 59TH STREET (6TH FLOOR)			ART UNIT	PAPER NUMBER
NEW YORK, NY 10022			3714	
			MAIL DATE	DELIVERY MODE
			09/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/771,076	ASHER ET AL.	
	Examiner	Art Unit	
	FRANK M. LEIVA	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 April 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4-23,26-28,31-33,35-47 and 49-79 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,4-23,26-28,31-33,35-47 and 49-79 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 February 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>02/04/2008; 05/21/2008</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Acknowledgements

1. The examiner acknowledges amendments to claims 1, 23, 56, 59 and 75 in applicant's submission filed 30 April 2008.

Response to Arguments

2. Applicant's arguments, see remarks, filed 30 April 2008, with respect to the rejection(s) of claim(s) **1-2, 4-17, 22-23, 26-28, 31-33, 35-39, 44-47, 49, 52-53, 56, 59-77 and 79** under 35 U.S.C. §102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon consideration, of the amended independent claims new ground(s) of rejection is made in view of Vlazny et al (US 2005/0116410 A1) and pari-mutuel state of the art. The applicant asserts that examiner's understanding of pari-mutuel pools is in error, yet only in view of racing establishments, the cited art of Vlazny in ¶ [0012] discloses the MultiBet with a single pool, and to looks at State run Pari-mutuel Lotteries, wherein players spend \$1.00 per ticket and all the funds are used to payout the top prize and 5 out of 6, 4 out of 6 numbers and so on, it is understood that all the bets are pooled and shared into several prizes. The examiner apologizes if the specific place pointed by the examiner does not fully covers all the features presented, it is understood that it is the applicant's responsibility to read the references cited. The examiner simply points to new material not already stated in the examination. As far as the argument related to the 37 C.F.R. §1.104(c)(2) for claims 14, 36 and 71, the examiner pointed to ¶ [0020] in paragraph 18 of the previous action in which Vlazny mentions carryover three (3) times, the pertinence of which is evident.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "increasing a payout for a first winning bet of the one or more bets relative to a pari-mutuel payout for

the winning participant of the event of the first winning bet, the increase being based at least in part selection of the first winning bets' event for a bonus, selection occurring after bets are received", of claim 12, and "canceling at least one event of the group of events", of claims 15, 37 and 72, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4-17, 22-23, 26-28, 31-33, 35-39, 44-47, 49, 52-53, 56, 59-77 and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlazny et al (US 2005/0116410 A1).

6. Regarding claims 1, 23, 56 and 59; Vlazny discloses:

A method comprising the steps of: at a computer processor, receiving a plurality of bets, each bet comprising: a selection of a first number of events selected from a group of events, (races from a track); a selection of a respective participant for each of the first number of events selected, (a horse in each race); and a bet amount, (fig. 2 and 8-9), wherein fig. 8 shows the betting cluster for the purchase.

Wherein at least one selected event of a first bet of the plurality of bets comprises a different event from at least one selected event of a second bet of the plurality of bets, it is inherent for the bets to be different; otherwise it would be considered doubling the original bet.

Combining the amounts of the bets of the plurality each bet amount to form a betting pool, (fig. 9), wherein “select pool” explicitly expresses the availability of betting pools to choose the bet from, well-known pari-mutuel system.

At a computer processor, determining an amount of a payout for winning bets of the plurality based at least in part on the amount of the bets in the betting pool, (¶[0060]), a computer processor programmed to calculate and display odds and payout information.

7. Regarding claims 2, 45, 53 and 60; Vlazny discloses the steps of: receiving results of the group of events, the results identifying a winning participant for each event of the group of events; and determining one or more winning bets of the plurality of bets based at least in part on the results, (¶ [0004]), wherein the pari-mutuel system applies the result of the races and affects the amount of winning according to the betting pool amounts and the amount of winners for that pool.

Art Unit: 3714

8. **Regarding claims 4, 26 and 61;** Vlazny discloses: wherein a rule for determining a payout to a bet of the plurality of bets comprises a winning bet is based at least in part on whether at least some of the selected respective participants correspond to a winning participant for each of the first number of events selected and the bet of the plurality of bets includes a winning participant of a specified event, (¶ [0004]), to add what was explained above, it is well-known for parlay tickets to win, all participants selected must win, then the amount of payout is determined by dividing a portion of the pool by the number of winning tickets of that pool.

9. **Regarding claims 5, 27 and 62;** Vlazny discloses wherein a rule for determining a payout to a bet of the plurality of bets comprises a winning bet is based at least in part on whether at least some of the selected respective participants correspond to a winning participant for each of the first number of events selected and the bet amount is at least as high as a specified amount, (¶ [0008]), well-known “Pick 6” bet consists of selecting 6 consecutive race winners, and payoff consists of a big jackpot for 6 out of 6 or a lesser amount for 5 out of 6.

10. **Regarding claims 6, 28 and 63;** Vlazny discloses wherein a rule for determining a payout to a bet of the plurality of bets comprises a winning bet is based at least in part on whether at least some of the selected respective participants correspond to a winning participant for each of the first number of events selected and the selected respective participants of the bet comprise participants having specified odds, (¶ [0004]), the payoff odds are determined by the amount of money wagered.

11. **Regarding claims 7 and 64;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning participant of the event of the first winning bet, the increase being based at least in part on the relative odds among the winning participants of the winning bets in the pool_determining an amount to be paid for each winning bet based on the number of winning bets and the amount of the total payout, (¶ [0004]), the payoff odds are

determined by the amount of money wagered, that number can decrease or increase according to the total amount of bets in the pool.

12. **Regarding claims 8 and 65;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning participant of the event of the first winning bet, the increase being based at least in part on the relative amount bet on the events in the pool wherein determining an amount to be paid for each winning bet is further based on the bet amount of each winning bet, (see claim 7).

13. **Regarding claims 9, 31 and 69;** Vlazny discloses wherein determining an amount to be paid for each winning bet is further based on the odds of the selected respective participants of each winning bet, (¶ [0004]), the award is calculated using the payoff odds for each participant.

14. **Regarding claims 10, 32, 47 and 66;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for only the bets on the same event as the first winning bet based at least in part on the first winning bet's selected respective participants for each of the first number of events selected each had specified odds, (see claim 7).

15. **Regarding claims 11, 33 and 46;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning participant of the event of the first winning bet, the increase being based at least in part on selection of the first winning bets' event for a bonus, selection being known to bettors while bets are received increasing a payout for a first winning bet of the one or more winning bets if at least one of the first winning bet's selected events comprises a specified event, (see claim 7), and include "teaser" bets well-known in the art.

Art Unit: 3714

16. **Regarding claim 12;** Vlazny discloses the step of increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning participant of the event of the first winning bet, the increase being based at least in part selection of the first winning bets' event for a bonus, selection occurring after bets are received wherein determining an amount of a total payout based at least in part on the betting pool comprises applying a commission rate to the betting pool, (¶ [0004]) it is well-known to take 15%-20% of the total pool for the house as a commission before calculating the payoff odds. Also see ¶ [0047] of applicant's disclosure wherein it is normal procedure to adjust (up or down) the payout or payoff of the winning bet after the race finishes due to last minute changes at the betting window.

17. **Regarding claims 13, 35 and 70;** Vlazny discloses wherein determining an amount of a total payout based at least in part on the betting pool comprises adding to the betting pool a carryover amount from a previous betting pool, (¶ [0020]).

18. **Regarding claims 14, 36 and 71;** Vlazny discloses comprising the steps of: receiving results of the group of events, the results identifying a winning participant for each event of the group of events; determining whether there are any winning bets based at least in part on determining for each of the plurality of bets if each selected respective participant corresponds to the winning participant for each of the first number of events selected in the bet; and determining a carryover amount to carry over to a future total payout if there are no winning bets, ((¶ [0004]), wherein the pari-mutuel system applies the result of the races and affects the amount of winning according to the betting pool amounts and the amount of winners for that pool, (¶ [0020]), and the carryover amount calculated and displayed for each event prior to race to attract bettors.

19. **Regarding claims 15, 37 and 72;** Vlazny discloses canceling at least one event of the group of events; receiving results of the group of events, the results identifying a

winning participant for at least one event of the group of events; and determining one or more winning bets by determining for each of the plurality of bets if at least one of the selected respective participants corresponds to the winning participant for at least one of the first number of events selected in the bet, (¶ [0118]), wherein the invention discloses rules for scratches and the cancellation of bets.

20. **Regarding claims 16, 38, 49 and 73;** Vlazny discloses wherein the first number of events comprise horse racing events held at different tracks, (fig. 8 and ¶ [0012]), shows the “bet cluster” and above signaling to choose a track and race, meaning that the track can be different from previous, “MultiBet”.

21. **Regarding claims 17, 39 and 74;** Vlazny discloses wherein the first number of events comprise events held on different days, (fig. 8), shows the “bet cluster” and above signaling to choose a track and race, non specifying a date, and is well-known to parlay races that are on different days, such is the triple crown championship.

22. **Regarding claims 22, 44, 52 and 79;** Vlazny discloses stipulating an adjustment parameter that provides a bonus to the plurality of bets upon satisfaction of the adjustment parameter, (fig. 26), carryover Jackpots adjust the pay by adding a bonus pay.

23. **Regarding claims 67 and 68;** Vlazny discloses increasing a payout for a first winning bet of the one or more winning bets relative to a pari-mutuel payout for the winning outcome of the event of the first winning bet, the increase being based at least in part on selection of the first winning bets' event for a bonus, selection being known to bettors while bets are received; and occurring after bets are received, (fig. 26 and ¶ [0113]), discloses the use of carryover monies used to create bonus payout to specific parlays, known in advance by the players so as to entice the players, also hidden jackpots that randomly show after the bets are made are well-known.

24. Claims 18-21, 40-43, 50-51, 54-55, 57-58 and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vlazny as applied to claims 1, 23, 56 and 59 above, and further in view of “TAB New Zealand’s Betting Agency (October 4th2003 disclosure)”, hereinafter TAB.

25. Regarding claims 18-20, 40-42, 50 and 75-77; Vlanzy discloses the compiling of a single pool of races from different tracks and different times into a single ticket as in the MultiBet system (¶ [0012]), but fails to disclose multiple sports explicitly, although it does say in ¶ [0061] that pari-mutuel betting expands to sporting event as well and to incorporate the teaching accordingly. TAB discloses wherein the first number of events comprise two or more events selected from events from the group consisting of one or more horse racing, dog racing, basketball, football, baseball, hockey, soccer, jai-alai, golf, boxing, rugby, cricket, auto racing, bicycle racing, tennis, Olympic or other sporting events; wherein the first number of events comprise at least one horse racing event and at least one football event; and wherein the first number of events comprise at least one football event and at least one basketball event, (page 1:"New Multi Betting on Sports"), as disclosed you can choose from a multitude of sporting events and “combined them into a single bet”.

26. Regarding claims 21, 43, 51, 54-55, 57-58 and 78; TAB discloses wherein the first number of events comprise:

a first event selected from events from the group consisting of comprising a horse racing, dog racing, basketball, football, baseball, hockey, soccer, jai-alai, golf, boxing, rugby, cricket, auto racing, bicycle racing, tennis, Olympic, political or entertainment event; and

a second event selected from events from the group consisting of comprising a horse racing, dog racing, basketball, football, baseball, hockey, soccer, jai-alai, golf, boxing, rugby, cricket, auto racing, bicycle racing, tennis, Olympic, political or entertainment

event; and wherein the first event and the second event comprise different types of events, (page 1), as is obvious from page 1 of TAB, the first second or third selections is selected by the available game list and can be of any sport.

Citation of Prior Art

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Simon et al (US 7,351,149) sports betting with bonus pay; MIR et al (US 6,450,887) parimutuel betting with bonus; Webb et al (US 6,811,483) teaser bonus game.

28. **Examiner's Note:** Examiner has cited paragraphs and figures in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

29. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRANK M. LEIVA whose telephone number is (571)272-2460. The examiner can normally be reached on M-Th 9:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714

FML
08/28/2008